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MAY 29 2009

**Petition to accept  
unavoidably delayed  
Payment  
For Pat. # 6855296**

2009 JUN -1 PM 4:37 P.02/12

MAY 29 2009

PTO/SB/85 (03-09)

Approved for use through 03/31/2012. OMB 0651-0018  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1985, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450  
Fax: (571) 273-8300NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at  
(571) 272-3282.Patent Number: 6,855,296Application Number: 09/831552Issue Date: 2/15/05Filing Date: 09/10/01CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent  
number (or reissue patent number, if a reissue) and (2) the application number of the actual  
U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s)  
is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

- ☐ is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_;  
original application number \_\_\_\_\_  
original filing date \_\_\_\_\_
- ☐ resulted from the entry into the U.S. under 35 U.S.C. § \_\_\_\_\_  
\_\_\_\_\_ filed on \_\_\_\_\_

*Note: Check  
for \$ 700.00  
not attached.  
D. Allen*

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this paper (along with any paper referred to as:

(1) being deposited with the United States Postal Service on the \_\_\_\_\_ with sufficient postage as first class  
mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-  
1450 OR(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-  
8300.

May 12, 2009

Date

Signature

William Heriot

Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

MAY 29 2009

PTO/SB/85 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## 1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

## 2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

## 3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input checked="" type="checkbox"/> \$ 490	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ _____	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 490  
Already paid see attached

## 4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 700

## 5. MANNER OF PAYMENT

- ☒ Enclosed is a check for the sum of \$ 700
- ☐ Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_
- ☐ Payment by credit card. Form PTO-2038 is attached.

## 6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. \_\_\_\_\_

MAY 29 2009

PTO/SB/65 (03-09)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## 7. OVERPAYMENT

As to any overpayment made, please

☐ Credit to Deposit Account No. \_\_\_\_\_

OR

☐ Send refund check

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

## 8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

## 9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

W. Heriot / Martin Baker  
Signature(s) of Petitioner(s)

May 12, 2009  
Date

William Heriot / Martin Baker  
Typed or printed name(s)

Registration Number, if applicable

42 Digital Dr. #8

(415) 884-0221

Address

Telephone Number

Novato, CA 94949

Address

## ENCLOSURES:

- ☒ Maintenance Fee Payment      Already paid see attached  
☒ Statement why maintenance fee was not paid timely  
☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)  
☐ Other: \_\_\_\_\_

MAY 29 2009

PTO/SB/55 (03-09)

Approved for use through 03/31/2012. OMB 0851-0016  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."



Signature

May 12, 2009

Date

William Heriot

Type or printed name

Registration Number, if applicable

**STATEMENT**

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

On February 6, 2007 the assignee (Optime Therapeutics) filed for bankruptcy in the United States Bankruptcy Court, Northern District of California (BK case # 07-10129) see attached. All assets were frozen by the court and were not under my control or accessible by me. I filed a motion in the Bankruptcy court to enable me to have the court imposed stay lifted so that I could maintain the patents. (see attached Motion for Relief From Stay filed February 27, 2009.) The Motion was heard on March 26, 2009 (see attached) and an Order was signed on March 31, 2009 (see attached) Only then was I able to get access to the files and attend to the patents. I received a notice of the patent expiration in April 2009. I paid the maintenance fees in May 2009, but the patents were not reinstated because I didn't include the surcharge. I am now sending in the surcharge.

(Please attach additional sheets if additional space is needed)




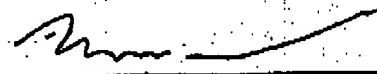
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P.06/12

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MAY 29 2009

	<b>Lippomix</b>	<b>LIPPOMIX INC.</b> 42 Digital Dr., Ste. 6 Novato, CA 94949-5762	<b>1105</b> 11-4238/1210 41 6004512255
	<i>Scientifically Formulated</i>		
		DATE	April 10, 2009
PAY TO THE ORDER OF	** United States Patent & Trademark Office *		\$ 490.00
***** Four Hundred Ninety Dollars *****		DOLLARS	
 Wells Fargo Bank, N.A. California wellsfargo.com			
FOR		Renewal of 6,855,296	
			

FORM B2F (Chapter 11 Corporation/Partnership Asset Case) (10/05)

MAY 29 2009

Case Number 07-10129

**UNITED STATES BANKRUPTCY COURT**  
Northern District of California (Santa Rosa)**Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines**

A chapter 11 bankruptcy case concerning the debtor Corporation listed below was filed on 2/6/07.

You may be a creditor of the debtor. This notice lists important deadlines. You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below.

NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

**See Reverse Side For Important Explanations**

Debtor(s) (name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address):

Optime Therapeutics DE, Inc.  
fka Optime Therapeutics, Inc.  
P.O. Box 6279  
San Rafael, CA 94903

Case Number:

07-10129

Taxpayer ID/Employer ID/Other Nos.:

94-3302126

Attorney for Debtor(s) (name and address):

Craig Stuppi  
Law Offices of Stuppi and Stuppi  
1630 N Main St. #332  
Walnut Creek, CA 94596  
Telephone number: (415) 786-4465

**Meeting of Creditors**

Date: March 2, 2007

Time: 01:30 PM

Location: Office of the U.S. Trustee, 777 Sonoma Ave. #116, Santa Rosa, CA 95404

**Deadlines to File a Proof of Claim**

Proof of claim must be received by the bankruptcy clerk's office by the following deadline:

For all creditors (except a governmental unit): 5/31/07

For a governmental unit: Must file before 180 days after the date relief was entered.

**Foreign Creditors**

A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

**Deadline to File a Complaint to Determine Dischargeability of Certain Debts:****Creditors May Not Take Certain Actions:**

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Address of the Bankruptcy Clerk's Office:

99 South "E" Street  
Santa Rosa, CA 95404

Telephone number: 707-525-8539

For the Court:

Clerk of the Bankruptcy Court:  
Gloria L. Franklin

Hours Open: Monday - Friday 9:00 AM - 4:30 PM

Date: 2/7/07

MAY 29 2009

1 David N. Chandler, Sr. SBN 60780  
David N. Chandler, Jr. SBN 235427  
2 DAVID N. CHANDLER, p.c.  
1747 Fourth Street  
3 Santa Rosa, CA 95404  
Telephone: (707) 528-4331

4 Attorneys for William Heriot

5 UNITED STATES BANKRUPTCY COURT  
6 NORTHERN DISTRICT OF CALIFORNIA  
7

8  
9 IN RE:

Case No. 07-10129

10 OPTIME THERAPEUTICS DE, INC.,

Chapter 11

11  
12 DEBTOR. /

MOTION FOR RELIEF FROM STAY  
DECLARATION OF WILLIAM HERIOT;  
POINTS AND AUTHORITIES

Date: March 12, 2009

Time: 9:00 a.m.

Place: 99 South E St.  
Santa Rosa, CA

15 TO: HONORABLE ALAN JAROSLOVSKY, UNITED STATES BANKRUPTCY JUDGE:  
16 William Heriot, secured creditor herein, by and through counsel,  
17 hereby moves the above entitled Court for an Order for Relief from  
18 Stay to complete a Sheriff Sale on certain intellectual property  
19 subject to pre-petition levy and execution.

20 The Motion is made on the grounds that the Debtor does not have  
21 any equity in the property (patent applications) and that such  
22 property is at risk due to procedural requirements of the U.S. Patent  
23 Office. Despite an Adequate Protection Order, Debtor has failed to  
24 maintain the patent applications and same are in danger of being lost  
25 based upon procedural requirements.

26 Said Motion is based hereon, the appended Declaration of William  
27 Heriot, and the appended Points and Authorities.  
28

1  
2 Dated: 2/27/09

DAVID N. CHANDLER, p.c.

3  
4 By: /s/ David N. Chandler  
5 DAVID N. CHANDLER,  
Attorney for William Heriot

6 DECLARATION OF WILLIAM HERIOT

7 I, William Heriot, declare and say:

8 1. That if called as a witness, I am competent to testify to  
9 the within matters from my own knowledge.

10 2. That I am a creditor of the Debtor herein and have  
11 perfected an execution lien pursuant to California Code of Civil  
12 Procedure Section 697.710 in certain intellectual property rights of  
13 the Debtor, i.e., patent applications.

14 3. In order to maintain the applications active, the  
15 applications must be extended prior to expiration dates. The  
16 applications have different expiration dates, but each must be acted  
17 upon by the applicant prior to such dates or they will lapse.

18 4. Extension of the patent applications requires certain legal  
19 work by a qualified patent attorney to insure that they do not lapse.

20 5. The patent applications may have some value. The value has  
21 been overstated by the Debtor in the Schedules on file with the  
22 Court. In order for the applications to retain any value, they must  
23 be timely prosecuted.

24 6. Debtor stipulated to an Adequate Protection Order whereby  
25 Debtor was required to maintain the Applications active and to  
26 provide periodic reports to confirm same. Debtor has failed to  
27 comply with the Order and the Trustee has not complied. It appears  
28 from the documentation available to me that the Applications are in

1 jeopardy of being rejected based upon failure to prosecute them.

2 7. Absent extension of the patent applications, the security  
3 interest in the applications is not adequately protected.

4 Executed under penalty of perjury this 25<sup>th</sup> day of February, 2009  
5 at Santa Rosa, California.

6 /s/ William Heriot  
7 William Heriot

8

9 POINTS AND AUTHORITIES

10 1. On request of a party in interest, and after notice and  
11 hearing, the Court shall grant relief if the Debtor does not have any  
12 equity in such property or such property is not necessary for  
13 effective reorganization. 11 U.S.C. Section 362(d).

14 2. The Court may condition the stay upon adequate protection  
15 for cause. 11 U.S.C. Section 362(d)(1).

16 3. The Court may provide adequate protection by ordering other  
17 relief which will result in the realization of the indubitable  
18 equivalent of the moving party's interest in the property. 11 U.S.C.  
19 Section 361(3). Such protection may be afforded by requiring cash  
20 payments. Section 361(1).

21 4. The obvious decline in the value of the intellectual  
22 property resulting from the failure of the Debtor and the Trustee to  
23 prosecute the application extensions renders the property valueless.  
24 If the property is to retain any value, the applications must be  
25 timely prosecuted.

26 5. The process requires investment of skilled legal services  
27 which must be incurred and paid for by the estate to preserve the  
28 asset base and to provide a basis for reorganization.

1           6.   Despite request, the Trustee has failed to abandon,  
2 stipulate to relief, or comply with the Adequate Protection Order.

3                                   Respectfully submitted,

4 Dated:       2/27/09                   DAVID N. CHANDLER, p.c.

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By: /s/ David N. Chandler  
DAVID N. CHANDLER,  
Attorney for William Heriot

U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

1 David N. Chandler, Sr. SBN 60780  
David N. Chandler, Jr. SBN 235427  
2 DAVID N. CHANDLER, p.c.  
1747 Fourth Street  
3 Santa Rosa, CA 95404  
Telephone: (707) 528-4331

4 Attorneys for William Heriot

5 UNITED STATES BANKRUPTCY COURT  
6 NORTHERN DISTRICT OF CALIFORNIA  
7

8  
9 IN RE: Case No. 07-10129

10 Chapter 11  
OPTIME THERAPEUTICS DE, INC.,

11  
12 DEBTOR. ORDER FOR RELIEF FROM STAY

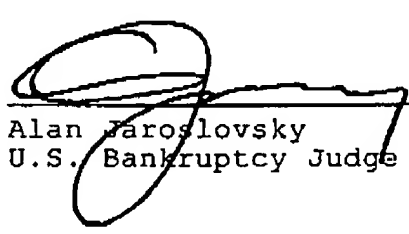
13 /  
14 The above captioned matter having come on for hearing before  
15 the above entitled Court on March 26, 2009 on the Motion of  
16 William Heriot for an Order for Relief from Stay, David N.  
17 Chandler appearing for the moving party and such other appearance  
18 having been made as shown in the record of the Court, and cause  
19 appearing,

20 IT IS HEREBY ORDERED as follows:

21 1. William Heriot is relieved from the provisions of 11  
22 U.S.C. Section 362(a) and may forthwith complete a Sheriff Sale  
23 related to patent applications and intellectual property subject  
24 to pre-petition levy and execution.

25 2. The stay as provided in FRBP Rule 4001(a) is waived.

26 Dated: March 31, 2009

27   
Alan Jaroslovsky  
U.S. Bankruptcy Judge